



**SUPREME COURT OF MISSISSIPPI**

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**OLIVER E. DIAZ, JR.**  
**PRESIDING JUSTICE**

October 22, 2007

Honorable John Conyers  
Chairman of the House Judiciary Committee  
United States House of Representatives  
2426 Rayburn Building  
Washington, DC 20515

Honorable Lamar S. Smith  
Ranking Member House Judiciary Committee  
United States House of Representatives  
2184 Rayburn Building  
Washington, DC 20515

Dear Chairman Conyers and Congressman Smith,

My friend, John Grisham, has made a comfortable living telling tales of political and legal intrigue set in our home state of Mississippi. However, the story I am about to tell does not spring from the fertile mind of a fiction writer. Instead, it is all too real, and I am afraid was hatched by politically corrupt employees in the United States Department of Justice and elsewhere. I fully understand the gravity and ramifications of the charges I have leveled and do not do so lightly, but have done so upon sober reflection and forethought. Thank you for allowing me this opportunity to tell my incredible story and to share the facts that form the basis of this saga.

As a Supreme Court Justice for the state of Mississippi, I have devoted my legal career to the fair and impartial administration of justice. It is my sincere belief that our system of jurisprudence has

been the standard of justice for all others to emulate. Five years ago I would never have believed that I would be saying the things I am about to say. However, my perspective in this matter comes from having been indicted, tried, and fully acquitted, not once, but twice. And my prosecution was led by a U. S. Attorney who had a personal and political interest in seeing to it that my co-defendants and I were convicted.

### **BACKGROUND FACTS**

Strangely enough, I think that the best place to begin my story is at the end of my first trial. After hearing a jury fully acquit me of a multi-count bribery and mail fraud indictment, the United States Attorney for the Southern District of Mississippi, Dunnica Lampton, amazingly admitted “I knew we would have a problem on [prosecuting] Diaz because he didn’t vote on anything.” In other words, in order to put the best face on an embarrassing courtroom defeat, the United States Attorney admitted to all watching that he never really had much of a case against me from the beginning. He was admitting that there was never anything to his bribery allegations because I had never participated in a case in which the attorney accused of bribing me was involved. At the end of a three and a half year investigation and having just gone through a three month trial in which I faced ninety-five years in federal prison and millions of dollars in fines, I was stunned. After all, this is the point I had been making for years, and yet the prosecution and the trial proceedings continued. Despite this admission, the generous mood of the U.S. Attorney did not last. Three days later he unsealed another indictment against me.

So, how did I get to the point of being the first Supreme Court Justice in the state of Mississippi to be indicted? In 1987, I was elected as a Republican to serve in the Mississippi State House of Representatives from my hometown of Biloxi. I frequently worked across party lines with many groups and began to get a great deal of support from the Democrats I served with and with many Democratic leaning groups. In 1994 I ran for a judicial post on the Mississippi Court of Appeals and won. Judges in Mississippi are non-partisan and since that time I have not been associated with any political party.

The beginnings of this case can be traced back to March of 2000 when I was serving as a judge on the Mississippi Court of Appeals. When a death created a vacancy on the Mississippi Supreme Court, I was appointed by Governor Ronnie Musgrove (D) to serve out the remainder of that term and to stand for election in November of that year. I agreed, knowing the difficulty presented by serving on the Court and putting together a campaign in a very short period of time. However, I knew that I could rely upon past supporters such as trial lawyers, labor unions and others who had previously worked with me and were familiar with my record. One person I knew that I could rely upon was my old friend Paul Minor who was always active in his financial and moral support of Democratic causes and candidates. But, what we did not know at the time was that the 2000 election for the Mississippi Supreme Court would be like no other judicial election in the history of Mississippi.

My opponent in the election was a trial judge by the name of Keith Starrett. Starrett is from southwest Mississippi and was a long time friend of Dunnica Lampton. Lampton actually hired

Starrett as an associate prosecutor and the two worked together until Starrett left for the trial bench. Lampton also left the prosecutor's office in 2000 and unsuccessfully ran for Congress as a Republican.

The 2000 election for the Mississippi Supreme Court quickly became a heated one. While judicial elections in Mississippi are non-partisan, I was supported by Democratic leaning groups and Starrett was supported by Republicans. The election proceeded as expected until two weeks prior to election day. At that time, millions of dollars in unreported outside money came pouring into Mississippi. The United States Chamber of Commerce launched a surprise attack to assist candidates they had endorsed and to defeat others. I was targeted for defeat and became the subject of a massive negative advertising campaign. At the same time, Starrett benefitted from positive advertising supporting his candidacy. The advertising campaign included television, radio, direct mail, and telephone calls.

The Chamber refused to comply with Mississippi campaign finance laws by revealing the source of the contributions. Mississippi state election officials actually went to court to force compliance with state law. Injunctions were issued to prohibit the illegal Chamber ads. The Chamber sought an emergency appeal with United States Supreme Court justice Antonin Scalia, who in an unusual single Justice order, vacated the injunctions and allowed the Chamber ads to run. The Chamber went to Scalia without even presenting the matter to any lower appellate court, instead going directly to the United States Supreme Court.

Because of this ruling, and in order to compete with the Chamber, I needed to raise a great deal of

money in a very short period of time. I immediately turned to my loyal supporters who suggested that the quickest way to raise that kind of money would be through a bank loan. Richard "Dickie" Scruggs and Paul Minor each agreed to guarantee bank loans so that my campaign could remain competitive. Minor guaranteed a loan for \$73,000 and Scruggs guaranteed a loan for \$80,000. This infusion of cash allowed me to respond to the overwhelming Chamber advertising campaign. Because of these loans I was able to maintain my lead and win the election.

After his loss, Starrett returned to the trial bench. However, Lampton who was unsuccessful in his congressional race was out of a job. But that did not last long. A few weeks later, George W. Bush nominated Lampton for United States Attorney for the Southern District of Mississippi. Months later Bush nominated Starrett to serve as a federal district court judge.

The bank loans were paid off a year after the election. Scruggs paid off the \$80,000 loan himself. Minor successfully sought donations from others to help pay off the \$73,000 loan. All debts from the 2000 election were paid.

Minor continued his support of Democratic candidates and causes. In 2002 he was listed as one of the ten largest contributors to John Edwards. Scruggs on the other hand contributed \$500,000 to Bush-Cheney and the Republican Party. It was sometime during 2002 when federal investigators began looking into the financial records of Paul Minor. Federal agents showed up at The People's Bank of Biloxi where Minor banked, demanding to see all of his financial records.

Shortly thereafter, media reports began to appear locally that a federal investigation was underway and it was looking into loans to judges that were guaranteed by Paul Minor at The People's Bank. It was reported that a federal grand jury had been convened and that it was investigating corruption in the Mississippi judiciary.

In October 2002 rumors were flying and many were concerned about the scope of the investigation. At this time, it was reported that the United States Senator from Mississippi, Trent Lott, stated that he had called federal investigators and was assured that his family members were not subjects of the investigation. Lott happens to be the brother-in-law of Richard "Dickie" Scruggs. The fact that Lott would feel comfortable enough to call federal investigators and inquire about an on-going investigation is an amazing admission. When questioned about this later, Lott denied that it had occurred.

Despite numerous conflicts and the appearance of a partisan investigation, the grand jury proceedings continued and on July 25, 2003 an indictment was handed down. It was trumpeted in a press conference called by Lampton. Indicted were Paul Minor, Oliver Diaz, Jennifer Diaz, John Whitfield and Walter W. "Wes" Teel. Jennifer Diaz is the wife of Oliver Diaz and Whitfield and Teel were state court trial judges who had also received campaign loans guaranteed by Minor. The charges were bribery and mail fraud related to campaign loans guaranteed by Minor to the judges. Minor was also charged with racketeering.

The defendants appeared in federal court and entered pleas of "not guilty." The case was assigned

to federal district judge Henry Wingate and various pretrial motions were filed. Among the motions filed were motions to dismiss for selective prosecution and for the recusal of Lampton. Wingate promised quick rulings on these motions but over a year and a half passed without any word from the judge. It was only on the eve of trial that Wingate denied the motions without written order.

Jury selection for the trial finally began in March of 2005. A jury was seated and the trial began in May. The trial continued through the summer and in August 2005 the jury returned a verdict. I was fully acquitted and Minor was partially acquitted. The jury could not reach a verdict on the remaining charges.

Our celebration did not last long. Three days later, Lampton unsealed another indictment against me, this time for tax evasion. He also announced that he would retry the remaining defendants.

I was tried again in April of 2006 and was again fully acquitted. The remaining defendants were retried in March of 2007 and were convicted. Minor was sentenced to eleven years in federal prison and fined nearly \$4,000,000 in fines. This fine is more than fifteen times the amount recommended in the Federal Sentencing Guidelines. Whitfield was sentenced to nine years in federal prison. Teel was sentenced to five years in federal prison. Jennifer Diaz was coerced into pleading guilty to one count of tax evasion and was sentenced to two years of supervised probation. I have returned to my position on the Mississippi Supreme Court.

## **THE IRREGULARITIES**

Given this background, which is troubling enough, I will now point out the facts that bring this case outside the realm of an ordinary federal criminal prosecution and into the realm of a prosecution based upon improper political considerations and for purely partisan motives.

The seminal question that must be asked is why did an investigation into the finances of Paul Minor even begin? Further, why would the federal government spend millions of dollars and dedicate extraordinary investigative resources focused on Minor? Remember, this is not a case where a crime was committed and investigators were dispatched to solve the crime. This is not even a case where a complaint was filed and investigators began looking into possible wrongdoing. Instead, this is a case where federal prosecutors decided to look into the financial activities of a specific citizen in an attempt to see if those transactions could be construed as a federal offense.

In 2002, Paul Minor was one of the ten largest donors to the campaign of John Edwards. Also, Minor was the largest single donor to Democratic candidates in the entire state of Mississippi. Media reports have indicated that during this time period federal investigators began looking into the financial dealings of major donors to the John Edwards campaign. It is precisely this time period when federal investigators entered the People's Bank of Biloxi, Mississippi and demanded to see the banking records of Paul Minor. For this reason alone, this investigation was suspect from the beginning and could be deemed a purely political witch hunt into the financial dealings of a major Democratic party donor. However, the irregularities do not end here.

To head up the Mississippi investigation, the partisans in the Department of Justice looked to the



U.S. Attorney in south Mississippi, Dunnica Lampton. Now, Lampton was no stranger to partisan Republican party politics, having twice run as the Republican nominee for the Fourth Congressional District of Mississippi, and having been twice defeated. Lampton lost the 2000 election to Ronnie Shows, who was financially supported by Paul Minor. During this election, Lampton received financial support from traditional Republican donors including lobbyist Haley Barbour, who represented Lorillard Tobacco, Brown & Williamson, and the Loews Corporation. All corporations successfully sued by Minor in the national tobacco litigation.

However, Lampton's familiarity with Paul Minor is not only political it is also personal. Ergon, Inc. Is a Mississippi corporation that is ranked on the Forbes list of 500 top private corporations in the United States. Ergon is a family owned business and is owned by the Lampton family of Mississippi. As an attorney representing injured people, Minor has successfully sued the Lampton family business, Ergon, and has recovered millions of dollars in damages on behalf of his clients. In fact, in July 2002, about the time this investigation began, Paul Minor entered an appearance on behalf of his clients against Ergon. The suit was later settled for several million dollars. This fact alone presents a serious conflict of interest for Lampton.

If this were not enough, Minor also supported me in my campaign for the Mississippi Supreme Court. I ruled against Lampton in several cases while serving as a judge on the Mississippi Court of Appeals. See *First Southwest Corp. v. Dudley F. Lampton*, among others. I was opposed by Keith Starrett, a family friend and former assistant of Lampton's. Starrett's secretary is Donna Lampton, a close relative of Dunnica Lampton. Due in large part to the last minute financial

assistance of Minor, I won. Lampton then used this election support as the basis for his federal indictment against me and Minor. He appointed FBI Special Agent Kevin Rust to lead the investigation. Amazingly, Rust was a financial contributor to the campaign of Keith Starrett in his contest against me. Another major conflict, and evidence of the political nature of this prosecution.

But, what about the charges in this case? One could argue that even if this case was begun for political reasons and even if the case proceeded because of a biased prosecutor, if a federal crime was committed then no harm has been done. Therefore, an analysis of this case is not complete until we look at the specific charges.

On July 25, 2002, a federal grand jury returned an indictment against Minor, myself and three others. The indictment stems from bank loans guaranteed by Paul Minor for me and two other judges. The indictment alleges that because Minor guaranteed campaign loans and eventually paid off these loans, the federal crime of bribery had occurred. Additional counts of mail fraud were alleged because of the paperwork associated with the filing and reporting of these loans. Minor was charged with the additional count of racketeering, a charge usually reserved for organized crime.

The defendants all pled “not guilty” and filed various motions challenging the indictment, alleging the political nature of the prosecution and setting forth the many conflicts of interest in this case. The prosecutors did not reply to these charges but instead responded by seeking a superceding indictment adding charges of extortion to Minor and me. The defendants requested a hearing on the motions but that request was denied and the motions were summarily dismissed on the eve of trial.

The prosecution has not to this day been required to answer any of these charges.

And so, the question now becomes, is it illegal for an attorney to guarantee loans to the election campaigns of judges in Mississippi? Based upon these indictments you would think that would be the case, but the answer is that it is not. It is perfectly legal for attorneys to contribute to the political campaigns of judges. In Mississippi, judges are elected by popular vote. Judges are allowed to receive campaign contributions from attorneys who practice before them. Until recently, there were no limits on the amount of contributions to judicial campaigns. And, there is no prohibition on attorneys guaranteeing loans to judicial campaigns.

However, the loans could in fact have constituted bribery if it could be shown that the loans were provided in exchange for rulings by the judges for which Minor was not entitled. So, how did prosecutors show that the rulings of the judges were not the correct rulings? In my case the prosecutors had a major problem. I never voted on any case involving Paul Minor or his firm, recusing myself in each instance. Not surprisingly, I was fully acquitted by the jury because of this. However, Whitfield and Teel had each ruled on one of Minor's cases. So, how would prosecutors show that the rulings on these cases were not correct?

Incredibly, they did not even attempt to do so. Because they could not show that the rulings were not correct, prosecutors argued that the simple existence of the loans coupled with rulings by the judges equated to federal bribery.

Prosecutors had the additional benefit of a Republican appointed trial judge in Henry Wingate. Wingate presided over the first trial of this case in which a jury acquitted on some charges and could not reach a verdict on others. Amazingly, Wingate changed many of his rulings from the first trial, ruling exactly opposite on many questions. One of the more significant rulings was that prosecutors did not have to prove a “quid pro quo” in this case. A “quid pro quo” is a basic requirement in any bribery trial and Wingate’s ruling on this issue sealed the case for the prosecution. This was clearly error and one is left to wonder why the judge changed his rulings.

In another instance, prosecutors actually offered a jury instruction that said that the defendants could be found guilty “even though you find that the rulings were legal and correct, that the official conduct would have been done anyway, that the official conduct sought to be influenced was lawful and required by law, and that the official conduct was desirable or beneficial to the public welfare.” Wingate allowed this instruction. With vague charges by prosecutors and rulings like these from the trial judge it is no surprise that the second jury was able to convict.

So, what about charges of selective prosecution? You might think that it was enough that Minor was singled out for scrutiny and that he faced vague charges of bribery and corruption, but was Minor the only person engaged in this conduct? Incredibly, again the answer is no. During their investigation, prosecutors discovered that it was indeed a common practice for attorneys to guarantee campaign loans to judges. In fact, investigators discovered that other attorneys had guaranteed campaign loans to judges in this very case. One attorney who did so was Richard “Dickie” Scruggs who had guaranteed an \$80,000 campaign loan for me. Again, it is not illegal for attorneys to

guarantee loans to judges and Scruggs did nothing wrong. However, he did the exact thing for which Minor was being prosecuted and prosecutors were fully aware of his conduct. Therefore, we are left to wonder why the different treatment for Minor? The answer seems to be because of his support for Democratic candidates and causes. Further, other judges had secured loans from Minor for their campaigns. These judges were not prosecuted even though they did not recuse themselves from Minor's cases and even though they ruled in his favor. Why a different treatment for these judges? It seems that if the judges were conservative enough they were not prosecuted. Again, the prosecution comes back to politics.

## CONCLUSION

In a speech to federal prosecutors, on April 1, 1940, former Attorney General of the United States, Robert H. Jackson said:

If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than pick cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm—in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself.

Today, some sixty-seven years later, Jackson's words are eerily prescient. He was able to foresee the potential for abuse that could be done by an unscrupulous prosecutor. Unfortunately, his

warnings were accurate and have come to fruition in this very case. Even worse, the problem was compounded in this case when the trial judge who should have acted as a moderating force on the prosecution, completely abdicated his role. The result is that United States citizens have been prosecuted for purely partisan political reasons.

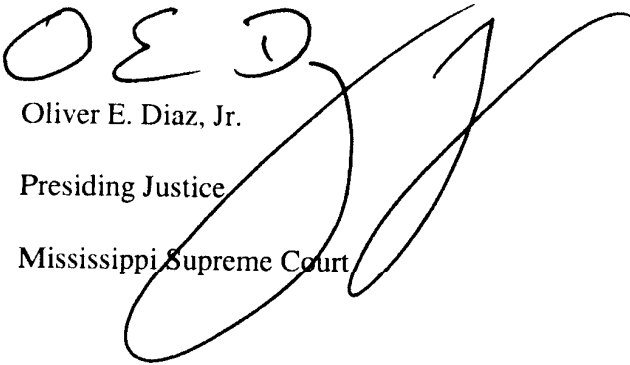
As a result of political persecution, three innocent men in Mississippi have been sentenced to lengthy terms in federal prison. They were selected for prosecution based solely on their political activities. They were subjected to vague charges of corruption which were impossible to defend against. They were prosecuted when others who had done the same things were not. They have been vilified, demoralized and financially bankrupted. And worse, this has all been done in the name of the government that these men have loved and served.

My fear is that in this case we are able to see, in the words of Jackson, "the greatest danger of abuse of prosecuting power." My faith is that this committee will seek answers to the troubling questions that have been raised by the prosecution of Democrats by a partisan Republican prosecutor in Mississippi. It is only when we have answers to these questions that we can begin to restore the trust that has been breached by political operatives who have hijacked our Department of Justice.

Again, thank you for allowing me the opportunity to be heard. It is indeed comforting to know that the pursuit of justice is being advanced by the work of this committee. The wisdom of our founding fathers and their system of checks and balances can be seen in your labors today. Your efforts and inquiries into the possibility of political corruption in the United States Department of Justice will

go a long way to restoring our faith in our system of jurisprudence and in fulfilling the promise of  
“justice for all.”

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Oliver E. Diaz, Jr.

Presiding Justice

Mississippi Supreme Court